

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

STEPHEN F.P. CIOLINO,

Plaintiff,

v.

RIVAS, *et al.*,

Defendants.

Case No. 3:23-cv-00075-ART-CSD

ORDER

Pro se Plaintiff Stephen F.P. Ciolino, an inmate in the custody of the Nevada Department of Corrections, brings this action under 42 U.S.C. § 1983 alleging that Defendants were deliberately indifferent to Plaintiff's serious medical needs. Before the Court is the Report and Recommendation ("R&R" or "Recommendation") of United States Magistrate Judge Craig S. Denney (ECF No. 27), recommending that Defendants' Motion to Dismiss (ECF No. 15) be denied. Defendants had until December 19, 2023 to file an objection. To date, no objection to the R&R has been filed. For this reason, and as explained below, the Court adopts the R&R, and will deny Defendants' Motion to Dismiss.

The Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party fails to object to a magistrate judge's recommendation, the Court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1116 (9th Cir. 2003) ("De novo review of the magistrate judges' findings and recommendations is required if, but *only* if, one or both parties file objections to the findings and recommendations.") (emphasis in original); Fed. R. Civ. P. 72, Advisory Committee Notes (1983) (providing that

1 the Court “need only satisfy itself that there is no clear error on the face of the
2 record in order to accept the recommendation”).

3 Because there is no objection, the Court need not conduct de novo review
4 and is satisfied Judge Denney did not clearly err. Here, Judge Denney
5 recommends denying Defendants’ Motion to Dismiss because Defendants’ res
6 judicata argument could not be resolved based on the information taken from
7 the face of the pleadings. (ECF No. 27 at 7–8.) In denying the Motion to Dismiss,
8 Judge Denney provided that Defendants may re-assert the res judicata argument
9 in a future motion for summary judgment if evidence supports a finding that
10 Plaintiff could have raised his claim in the earlier action. The Court agrees with
11 Judge Denney. Having reviewed the R&R and the record in this case, the Court
12 will adopt the R&R in full.

13 IT IS THEREFORE ORDERED that Judge Denney’s Report and
14 Recommendation (ECF No. 27) is accepted and adopted in full.

15 IT IS FURTHER ORDERED Defendants’ Motion to Dismiss (ECF No. 15) is
16 DENIED.

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18 DATED THIS 8th day of January 2024.

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21 ANNE R. TRAUM
22 UNITED STATES DISTRICT JUDGE
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